

## **ATTACHMENT A**

### **WAIVER CONDITIONS FOR THE REUSE OF NON-HAZARDOUS CRUDE OIL IMPACTED SOILS AND NON-HAZARDOUS SPENT SANDBLASTING AGGREGATE ON ACTIVE OIL LEASES AND FEE PROPERTIES IN THE CENTRAL COAST REGION**

#### **GENERAL WAIVER CONDITIONS**

The following conditions apply to all discharges enrolled in the General Reuse Waiver in accordance with Order No. R3-2010-0037, as of the adoption date of this Order:

##### **A. Prohibitions**

1. Discharge of reuse materials classified as "hazardous," as defined in California Code of Regulations (CCR), Title 23, Section 2521, or hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code, or hazardous materials and hazardous wastes defined per CCR Title 22, Division 4, Chapter 30, and Article II, or Resource Conservation and Recovery Act hazardous waste defined per 42 USCA Section 6903, or chemical substances or mixtures regulated under Section 6 of the Toxic Substances Control Act (15 USCA Section 2605), is prohibited.
2. Any other reuse or discharge, except at a licensed disposal facility that is not specifically authorized by this General Waiver or individual waste discharge requirements, is prohibited. Discharge of reuse materials to areas outside the designated reuse project area and to areas outside "active" oil leases and fee properties, as defined by this Order, is prohibited. The Discharger shall identify the proposed reuse project areas in its report of waste discharge (ROWD) and shall provide specific locations for the limits of reuse material in each reuse project area. When these boundary limits are identified to the satisfaction of the Executive Officer, these boundaries will define the limits of the corresponding reuse project boundary for the purposes of this prohibition.
3. Activities posing a threat to public health and safety or water quality are prohibited.
4. Use of soil or reuse materials containing non-RCRA excluded petroleum wastes (e.g., diluent or "KD" Distillate) is prohibited.
5. Discharge (including overflow, bypass, seepage, erosion, sediment deposition and over spray) of solid waste, liquid waste or leachate to ponded water or waters of the state, including surface water, perched water, ephemeral drainages or groundwater, is prohibited.
6. Creation of a condition of pollution, contamination, or nuisance, as defined by California Water Code (CWC) Section 13050, is prohibited.
7. Discharge of radioactive substances or chemical and biological warfare agents is prohibited.
8. Discharge of reuse materials containing substances in concentrations toxic to human, plant, animal, or aquatic life is prohibited.
9. The discharge of reuse materials to surface drainage courses or to usable groundwater is prohibited.

10. Reuse materials may not be used outside the county of their origin unless the project receives all applicable permits and written approval is granted by the Executive Officer.
11. The discharge of reuse materials that contain free liquid, determined by visual inspection or as defined by USEPA Method 9095 (Paint Filter Liquids Test), is prohibited. All free flowing liquids shall be removed within 48-hours.
12. Reuse of soils and materials containing flowing non-aqueous phase liquids under compaction, mixing or due to summer temperatures is prohibited.
13. Discharge of soil or spent aggregate for non-beneficial purposes (e.g., disposal) is prohibited. The determination of whether land application of waste soils constitutes beneficial reuse or disposal is the purview of the Executive Officer.
14. The establishment of a Reuse project without written notification and full disclosure of the proposed activities to the property owner, a copy of which must be provided to the Water Board, is prohibited.
15. The discharge of reuse materials shall not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.
16. The discharge of reuse materials shall not conflict with any applicable habitat conservation plan or natural community conservation plan.
17. The discharge of reuse materials to the habitat of a sensitive, special status or candidate species without proper permitting and mitigation is prohibited.
18. The discharge of reuse materials shall not cause a substantial adverse change in the significance of a historical or archaeological resource as defined in §15064.5 of the California Environmental Quality Act (CEQA) Guidelines.
19. The discharge of reuse materials shall not directly or indirectly destroy a unique paleontological resource or sites of unique geologic feature, nor disturb any human remains, including those interred outside of formal cemeteries, as required in § 15064.5 of the California Environmental Quality Act (CEQA) Guidelines.
20. Beneficial reuse materials shall not be placed in the upper parts of mown landslides or in landslide prone areas without a prior geologic evaluation.
21. The placement of permanent inhabited structures on beneficial reuse materials is prohibited.

## **B. Specifications**

1. This General Waiver only authorizes the use of Reuse materials for specified activities and 'as approved by the Executive Officer. Reuse materials shall be limited to soil containing non-hazardous crude oil and spent aggregates.

2. The design and construction of all approved Reuse projects including all impervious working areas, and diversionary and containment structures (berms, curbing, etc.) shall be performed by experienced personnel and in accordance with "Good and Workmanlike" construction standards, as determined by oversight agency inspections. The Discharger shall contact the appropriate city or county planning and building authorities to obtain construction permits, if needed. Specifications and plans shall be signed by a principal executive officer of at least the level of vice-president or their duly authorized representative.
3. Except as exempted below, Reuse materials may be used only on properties in active oil production from which they were derived, or per CCR Title 14, other active oilfield properties owned or leased by the same entity.
4. The Discharger shall provide assurance that all proposed Reuse materials have been appropriately characterized and meet the intended end use.
5. Prior to receiving approval of lease/fee decommissioning from the appropriate local agency with jurisdictional authority, the Discharger shall remove all Reuse materials or they may be left in-place provided that the surface rights owner agrees with the operator in writing to accept joint and several future liability, including maintenance, monitoring and if necessary, disposal, for the Reuse materials at the site. Such agreement shall not relieve the operator of any liability the operator would have had absent the written agreement. All Reuse materials that are removed shall be handled and disposed in accordance with applicable local and state requirements in effect at the time of such removal. For those facilities where Reuse materials are to be left in-place, the Discharger shall record a deed notice with the Recorder of the County in which the site is located, that identifies the prior use the property as an oil field facility where Reuse materials were left in-place. The notice shall include a description of the reuse materials and a map that identifies the location of the Reuse materials. Confirmation of recordation and a copy of the deed notice shall be provided to the Executive Officer as a condition a final closure and decommissioning approval.
6. The Discharger shall apply and maintain reuse materials in a manner that reduces permeability, leaching and erosion.
7. Discharge of waste, other than crude oil-impacted soils and spent sandblasting aggregates, is prohibited, except in compliance with Water Code Section 13264.
8. The Discharger shall mix, compact and maintain Reuse materials used for diversionary structures (berms, curbing, etc.) to minimize erosion. "Good and Workmanlike" construction will be recognized by the structure's ability to divert the expected flow with acceptable levels of berm or curbing erosion as determined by oversight agency inspection.
9. Reuse operations shall be in accordance with federal, state and local laws, codes and regulations (e.g., Fish & Game Code Section 1603).
10. All sources of reuse materials used on construction projects must have proper engineering properties for their intended use, shall undergo the appropriate sampling protocol, and meet the appropriate Reuse standards.
11. The Discharger may temporarily stockpile Reuse materials at Executive Officer-authorized Waste Pile Facilities during inclement weather.

12. Any applicable exemption from permitting requirements for industrial facilities under the National Pollutant Discharge Elimination System (NPDES) regulations of the Clean Water Act, does not exempt Reuse projects from the storm water requirements of this general conditional waiver.

13. The Discharger shall implement the attached Monitoring and Reporting Program (MRP) No. R3-20010-0037, or any individual MRP issued by the Executive Officer, in order to detect any impacts on waters of the state associated with and or caused by the discharge, past disposal practices and to ensure implementation of all necessary Management Practices and long-term maintenance activities.

14. The Discharger shall neither cause nor contribute to any surface water contamination, pollution, or nuisance.

15. The Discharger shall not violate Basin Plan prohibitions.

16. The Discharger shall not cause an increase in concentration of waste constituents in soil-pore gas, soil-pore liquid, perched water, groundwater or geologic materials outside of the Reuse property boundary.

17. The Discharger shall maintain all Reuse projects with visible erosion damage as soon as practicable.

18. By **October 1 of each year**, the Discharger shall complete implementation of all necessary Management Practices and maintenance activities in preparation for the upcoming rainy season, including but not limited to the following:

- a. Completion of all necessary run-on and run-off diversion and erosion prevention measures.
- b. Completion of all necessary construction (grading), maintenance, or repairs of precipitation and drainage control facilities shall be completed.
- c. Ensure the structural integrity and effectiveness of all containment structures are maintained.

### **C. Water Quality Protection Standards**

1 Reuse materials shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Water Board or the State Water Board.

2 Reuse materials shall not cause concentrations of metals, salts, chemicals, petroleum hydrocarbons or radionuclides in groundwater underlying and down gradient of the reuse area to exceed the State Department of Health Services latest recommended drinking water Action Levels or Maximum Contaminant Levels of the CCR Title 22, Division 4, Chapter 1S, Article 5.5.

3 The Discharger shall install surface water monitoring devices, as deemed necessary and appropriate by the Executive Officer, to comply with this Order.

4 The Discharger is responsible for waste containment, monitoring, and maintenance so long as the waste poses a threat to water quality. The Discharger is also responsible for correcting any problems that may arise in the future as a result of the waste discharged. This responsibility continues as long as the waste has the potential to discharge to or affect waters of

the state, as determined by the Executive Officer.

5 Discharge of waste shall comply with all applicable requirements contained in the Basin Plan. If any applicable requirements overlap or conflict in any manner with the requirements of this General Waiver, the most water quality protective requirement shall govern in all cases, unless specifically stated otherwise in this Order.

#### **D. Provisions**

1. The Discharger shall maintain records of weights or volumes of Reuse material placed, where the Reuse material came from and chemical characterization of any waste soil used at an approved Reuse project area.
2. The Discharger shall maintain a copy of this General Waiver at the Dischargers' local offices and shall be available to on-site operating personnel.
3. The Discharger shall furnish any information that the Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this General Waiver. The Discharger shall also furnish to the Executive Officer upon request, copies of records required to be kept by this General Waiver.
4. The Water Board and its authorized representatives shall be allowed to:
  - a. Enter upon the discharger premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this General Waiver.
  - b. Have access to and copy any records that must be kept under the conditions of this General Waiver.
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this General Waiver.
  - d. Photograph, sample or monitor for the purposes of assuring compliance with this General Waiver.
5. The Discharger shall have a continuing responsibility for waste containment, monitoring, maintenance, and to assure protection of usable waters from discharged wastes, so long as the reuse materials pose a threat to water quality.
6. The Discharger shall furnish the Water Board, within a reasonable time, any information that the Water Board may request to determine compliance with this General Waiver.
7. Dischargers seeking coverage by this General Waiver shall submit an application package to the Water Board for Executive Officer approval. This package will serve as a report of waste discharge (ROWD). The Discharger shall provide a minimum of one application package (ROWD) per lease or fee property. Multiple Reuse projects located within a single lease or within the Discharger's existing Business Plan, as defined by the respective County or Certified Unified Public Agency, may be addressed in a single ROWD. The ROWD must contain at a minimum, but not limited to the following information:
  - a. Source -The source of the reuse material must be identified by name of the lease or fee property and description of location where the spill occurred or where material was generated. Include maps and latitude and longitudinal coordinates, if known and when readily available. [Note: if this information has already been documented as part of the Waste Pile General Order No. R3-2010-0036 requirements, it does not need to be

provided again].

b. Destination -The proposed location of the approved Reuse project must be identified by name of the lease or fee property and a positional description with reference to oil wells or other existing landmarks. Include maps showing roads that will be surfaced or other infrastructure that will be maintained. If long-term, ongoing reuse is proposed, the applicant must submit an inventory with maps showing the roads and infrastructure that will be maintained and a prioritization that will determine the progression of reuse as material becomes available.

c. Material characterization -Results of sampling that show compliance with this General Waiver must be included. This section must include a specific description of the sampling and analyses protocol utilized to characterize the Reuse materials.

d. A Compliance Plan -This plan shall describe the proposed strategy/plan of action to achieve compliance with the conditions or the General Waiver and General MRP.

e. A schedule for the installation of any proposed monitoring system/devices. If monitoring devices are planned, the proposed monitoring locations shall be presented.

f. A topographical scale map showing the location of all surface water bodies (creeks, rivers, lakes, etc.,) located topographically downgradient from the approved Reuse Project.

g. Any other information pertinent to protection of water quality or public health and prevention of nuisance.

h. Proposed Reuse Management Plan (Reuse Plan) to document each proposed reuse project area. The Reuse Plan shall include detailed information concerning the design specifications, and construction plans including the following information:

- (i) Details concerning the proposed reuse materials to be utilized during the construction.
- (ii) Tonnage (cubic yards) used, material thickness, project area size, project location map, and GPS tracking data clearly depicted on a map for each reuse project.
- (iii) Description of sampling protocol used and results of all analytical data collected, and
- (iv) A detailed summary of compliance with all General Waiver conditions.

m. The Discharger shall make such changes to the Reuse Plan as may be necessary to maintain continued compliance with all applicable General Waiver conditions (e.g., in the event of design changes, or as directed by the Executive Officer).

n. A proposed Management Practices (MP) Plan to ensure that reuse activities do not add pollutants to storm waters, The MP Plan shall address the following items:

- (i) Identify and map potential sources of pollution,
  - (a) Develop a map of all proposed reuse project areas including but not limited to existing parking areas, roads, pads, drainages (including ephemeral drainages), planned reuse areas, and other areas where reuse has occurred,
- (ii) Document and ensure implementation of MPs,
  - (a) Assess pollutants' risks from sources identified in the step (a.), above,
  - (b) Develop non-structural MPs, These typically include processes, prohibitions,

procedures, activity schedules, etc., that prevent pollutants from contacting storm water discharges. Examples include good housekeeping, preventive maintenance, spill response, material handling and storage, employee training, waste handling, record keeping, inspections, and quality assurance,

(c) Develop structural MPs. These generally consist of structural devices that reduce or prevent pollutants in storm water discharges. Examples may include control devices such as berms, secondary containment structures, and treatments such as erosion control, vegetative swales, etc,

(iii) Identify and provide location map of all nearby (within 0.5 miles) all surface waters (creeks, rivers, lakes, etc.) that may be impacted by a storm water discharge, n, Fee -The application shall include a one-time fee corresponding to the lowest "threat" and "complexity" ratings, as identified in the State Water Board's (SWRCB's) fee schedule.

o. Landowner Notification -a copy of the formal notification letter sent to the property landowner noticing the proposed Reuse project.

8. Upon receipt of a complete application (ROWD), the Executive Officer will notify the applicant of General Waiver enrollment if the facility meets the conditions of this Order, or will deny enrollment. The applicant may start the reuse project upon receipt of the Executive Officer's notification; The Executive Officer will inform the Water Board of General Waiver enrollments in the agenda of its next regularly scheduled hearing,

9. The Discharger shall not discharge waste associated with a Reuse project before receiving notification from the Executive Officer stating that this General Waiver covers the proposed Reuse project and that an individual conditional waiver is not required, The notification letter will specify the following:

- a. Any modification to MRP No, R3-2010-0037 or, if applicable, to the Discharger's existing individual MRP.
- b. If applicable, that the Discharger's existing individual MRP (including any necessary modifications) shall continue in force in lieu of MRP No. R3-2010-0037.
- c. The effective period of coverage under this General Waiver.
- d. Any additional conditions based on site-specific considerations.

10. Where the Discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the Water Board, it shall promptly submit such facts or information.

11. By **October 1 of each year**, the Discharger shall submit an Annual Report summarizing all preparedness measures performed to ensure discharges to surface or groundwater do not occur during the impending rainy season, and ensure all relevant Management Practices (Provision D.7.m) have been successfully implemented. The report shall be submitted in accordance with MRP No. R3-2010-0037.

12. The filing of a request by the Discharger for the modification or termination of this General Waiver, or notification of planned changes or anticipated noncompliance does not stay any condition of this General Waiver.

13. The Water Board may require any Discharger covered under this General Waiver to apply for and obtain individual conditional waivers. A Discharger covered under this General Waiver may apply for individual conditional waivers.

14. Discharger shall obtain all required federal, state and local agency permits or variances prior to commencing any proposed reuse operation.

15. At any time, the Discharger may file a written request (including appropriate supporting documents) with the Water Board Executive Officer, proposing appropriate modifications to the monitoring and reporting program. The Executive Officer shall either reject the proposal for reasons listed, or shall incorporate the proposed changes into a revised Monitoring and Reporting Program. The Discharger shall implement any changes in the monitoring and reporting program, upon issuance by the Executive Officer.

16. The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this General Waiver, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

17. Except for data determined to be confidential under Section 13267(b) of the California Water Code, all technical reports prepared in accordance with this General Waiver are non-exempt public records and shall be sent by the Discharger to the appropriate local agencies with jurisdictional authority (e.g., Santa Barbara County, Fire Prevention Division, Division of Oil, Gas and Geothermal Resources, etc.). All reports shall be signed as follows:

- a. For a public agency -by either a principal executive officer or ranking elected official\*.
- b. For a partnership or sole proprietorship -by a general partner or the proprietor, respectively.
- c. For a corporation -by a principal executive officer of at least the level of vice-president\*\*

\* or a duly authorized representative. A "duly authorized representative" means a person who has a written authorization from the Discharger to sign the required reports on behalf of the Discharger. The written authorization must be signed by one of the individuals described in a., b., or c.

18. This General Waiver is not transferable. The Discharger shall notify the Water Board in



writing of any proposed change in ownership or responsibility of the property where an authorized reuse project area is located. Notification shall be performed by filing a Notice Of Termination within 30-days following the effective date of change in ownership or responsibility. Failure to submit a Notice Of Termination shall be considered a violation of Section 13264 or the Water Code.

19. This General Waiver does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.

20. Provisions of this General Waiver are severable. If any provision of this General Waiver is found invalid, the remainder of this General Waiver shall not be affected.

21. Any person signing a document under this Section shall make the following certification:

" I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

22. The Discharger shall submit reports required under this General Waiver and other information requested by the Executive Officer, to:

**Water Board Address**

Central Coast Water Board, 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401-7906

1. The Discharger shall comply with all conditions of this General Waiver and any additional conditions prescribed by the Water Board in amendments thereto. Any noncompliance with this General Waiver constitutes a violation of the CWC and is grounds for: (a) enforcement action [CWC Section 13261, 13263, 13265, 13267, 13268, 13300, 13301, 13304, 13340, 13350]; (b) termination or modification of this General Waiver; or (c) denial of a Report of Waste Discharge in application for a new or revised General Waiver.
2. The requirement that the Discharger submit a report of waste discharge is also pursuant to Section 13260 of the California Water Code. Section 13261 of the Water Code states that a violation of a request made pursuant to Water Code Section 13260 may subject the Discharger to administrative civil liability of up to \$1,000 per day.
3. As provided by CWC Section 13350(a), any person may be civilly liable if that person in violation of a waiver condition or waste discharge requirements; discharges waste, or